

AMENDED IN ASSEMBLY APRIL 6, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2056**

---

**Introduced by Assembly Member Aghazarian**

February 15, 2006

---

An act to amend Section ~~120262~~ 1797.188 of the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 2056, as amended, Aghazarian. Public health: exposure to communicable diseases.

*Existing law requires prehospital emergency medical care personnel, as defined, who have provided emergency medical or rescue services and have been exposed to a person afflicted with a disease or condition listed as reportable, which can, as determined by the county health officer, be transmitted through oral contact or secretions of the body, including blood, to be notified that they have been exposed to the disease, in accordance with specified procedures.*

Existing law separately provides that the blood or other potentially infectious material of a person receiving health care services that has been the source of a significant exposure to an individual, *including, but not limited to, a health care provider, or first responder*, may be tested and the exposed individual may be informed of the communicable disease status of that patient if certain conditions are met. ~~Existing law provides that if this source patient refuses to consent to a test after a documented effort has been made to obtain consent, then any available blood or patient sample, as defined, of the source patient may be tested. Existing law prohibits the disclosure of the source patient's identity.~~

~~This bill would make a technical, nonsubstantive change to these provisions provide that the above notification procedures for prehospital emergency medical care personnel are in addition to the testing and notification procedures for individuals who have been exposed to the blood or other potentially infectious material of a person receiving health care services.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1797.188 of the Health and Safety Code  
2     is amended to read:  
3     1797.188. (a) As used in this section:  
4     (1) “Prehospital emergency medical care person or personnel”  
5     means any of the following: an authorized registered nurse or  
6     mobile intensive care nurse, emergency medical technician-I,  
7     emergency medical technician-II, emergency medical  
8     technician-paramedic, lifeguard, firefighter, or peace officer, as  
9     defined or described by Sections 1797.56, 1797.80, 1797.82,  
10    1797.84, 1797.182, and 1797.183, respectively, or a physician  
11    and surgeon who provides prehospital emergency medical care or  
12    rescue services.  
13    (2) “Reportable disease or condition” or “a disease or  
14    condition listed as reportable” means those diseases prescribed  
15    by Subchapter 1 (commencing with Section 2500) of Chapter 4  
16    of Title 17 of the California Administrative Code, as may be  
17    amended from time to time.  
18    (3) “Exposed” means at risk for contracting the disease, as  
19    defined by regulations of the state department.  
20    (4) “Health facility” means a health facility, as defined in  
21    Section 1250, including a publicly operated facility.  
22    (b) ~~All~~ *In addition to the communicable disease testing and*  
23    *notification procedures applicable under Chapter 3.5*  
24    *(commencing with Section 120260) of Part 1 of Division 105, all*  
25      
26    volunteers, partly paid, or fully paid, who have provided  
27    emergency medical or rescue services and have been exposed to  
28    a person afflicted with a disease or condition listed as reportable,  
29    which can, as determined by the county health officer, be

1 transmitted through oral contact or secretions of the body,  
2 including blood, shall be notified that they have been exposed to  
3 the disease and should contact the county health officer if all the  
4 following are satisfied:

5 (1) The prehospital emergency medical care person, who has  
6 rendered emergency medical or rescue services and has been  
7 exposed to a person afflicted with a reportable disease or  
8 condition, provides the health facility with his or her name and  
9 telephone number at the time the patient is transferred from that  
10 prehospital emergency medical care person to the admitting  
11 health facility; or the party transporting the person afflicted with  
12 the reportable disease or condition provides that health facility  
13 with the name and telephone number of the prehospital  
14 emergency medical care person who provided the emergency  
15 medical or rescue services.

16 (2) The health facility reports the name and telephone number  
17 of the prehospital emergency medical care person to the county  
18 health officer upon determining that the person to whom the  
19 prehospital emergency medical care person provided the  
20 emergency medical or rescue services is diagnosed as being  
21 afflicted with a reportable disease or condition.

22 (c) The county health officer shall immediately notify the  
23 prehospital emergency medical care person who has provided  
24 emergency medical or rescue services and has been exposed to a  
25 person afflicted with a disease or condition listed as reportable,  
26 which can, as determined by the county health officer, be  
27 transmitted through oral contact or secretions of the body,  
28 including blood, upon receiving the report from a health facility  
29 pursuant to paragraph (1) of subdivision (b). The county health  
30 officer shall not disclose the name of the patient or other  
31 identifying characteristics to the prehospital emergency medical  
32 care person.

33 Nothing in this section shall be construed to authorize the  
34 further disclosure of confidential medical information by the  
35 health facility or any prehospital emergency medical care  
36 personnel described in this section except as otherwise  
37 authorized by law.

38 In the event of the demise of the person afflicted with the  
39 reportable disease or condition, the health facility or county  
40 health officer shall notify the funeral director, charged with

1 removing the decedent from the health facility, of the reportable  
2 disease prior to the release of the decedent from the health  
3 facility to the funeral director.

4 Notwithstanding Section 1798.206, violation of this section is  
5 not a misdemeanor.

6 ~~SECTION 1. Section 120262 of the Health and Safety Code~~  
7 ~~is amended to read:~~

8 ~~120262. Notwithstanding Chapter 7 (commencing with~~  
9 ~~Section 120975) or any other provision of law, the blood or other~~  
10 ~~tissue or material of a source patient may be tested, and an~~  
11 ~~exposed individual may be informed whether the patient has~~  
12 ~~tested positive or negative for a communicable disease if the~~  
13 ~~exposed individual and the health care facility, if any, have~~  
14 ~~substantially complied with the then applicable guidelines of the~~  
15 ~~Division of Occupational Safety and Health and the State~~  
16 ~~Department of Health Services and if the following procedure is~~  
17 ~~followed:~~

18 ~~(a) (1) Whenever a person becomes an exposed individual by~~  
19 ~~experiencing an exposure to the blood or other potentially~~  
20 ~~infectious material of a patient during the course of rendering~~  
21 ~~health care-related services or occupational services, the exposed~~  
22 ~~individual may request an evaluation of the exposure by a~~  
23 ~~physician to determine if it is a significant exposure, as defined~~  
24 ~~in subdivision (h) of Section 120261. No physician or other~~  
25 ~~exposed individual shall certify his or her own significant~~  
26 ~~exposure. However, an employing physician may certify the~~  
27 ~~exposure of one of his or her employees. Requests for~~  
28 ~~certification shall be made in writing within 72 hours of the~~  
29 ~~exposure.~~

30 ~~(2) A written certification by a physician of the significance of~~  
31 ~~the exposure shall be obtained within 72 hours of the request.~~  
32 ~~The certification shall include the nature and extent of the~~  
33 ~~exposure.~~

34 ~~(b) (1) The exposed individual shall be counseled regarding~~  
35 ~~the likelihood of transmission, the limitations of the testing~~  
36 ~~performed, the need for followup testing, and the procedures that~~  
37 ~~the exposed individual must follow regardless of whether the~~  
38 ~~source patient has tested positive or negative for a communicable~~  
39 ~~disease. The exposed individual may be tested in accordance~~  
40 ~~with the then applicable guidelines or standards of the Division~~

1 of Occupational Safety and Health. The result of this test shall be  
2 confirmed as negative before available blood or other patient  
3 samples of the source patient may be tested for evidence of  
4 infection to a communicable disease, without the consent of the  
5 source patient pursuant to subdivision (d).

6 (2) Within 72 hours of certifying the exposure as significant,  
7 the certifying physician shall provide written certification to an  
8 attending physician of the source patient that a significant  
9 exposure to an exposed individual has occurred, and shall request  
10 information on whether the source patient has tested positive or  
11 negative for a communicable disease, and the availability of  
12 blood or other patient samples. An attending physician shall  
13 respond to the request for information within three working days.

14 (c) If the test results of the source patient are already known to  
15 be positive for a communicable disease, then, except as provided  
16 in subdivisions (b) and (e) of Section 121010, when the exposed  
17 individual is a health care provider or an employee or agent of  
18 the health care provider of the source patient, an attending  
19 physician and surgeon of the source patient shall attempt to  
20 obtain the consent of the source patient to disclose to the exposed  
21 the testing results of the source patient regarding communicable  
22 diseases. If the source patient cannot be contacted or refuses to  
23 consent to the disclosure, then the exposed individual may be  
24 informed of the test results regarding communicable diseases of  
25 the source patient by an attending physician of the source patient  
26 as soon as possible after the exposure has been certified as  
27 significant, notwithstanding Section 120980 or any other  
28 provision of law.

29 (d) If the communicable disease status of the source patient is  
30 unknown to the certifying physician or an attending physician, if  
31 blood or other patient samples are available, and if the exposed  
32 individual has tested negative on a baseline test for  
33 communicable diseases, the source patient shall be given the  
34 opportunity to give informed consent to a test for communicable  
35 diseases in accordance with the following:

36 (1) Within 72 hours after receiving a written certification of  
37 significant exposure, an attending physician of the source patient  
38 shall do all of the following:

39 (A) Make a good faith effort to notify the source patient or the  
40 authorized legal representative of the source patient about the

1 significant exposure. A good faith effort to notify includes, but is  
2 not limited to, a documented attempt to locate the source patient  
3 by telephone or by first-class mail with a certificate of mailing.  
4 An attempt to locate the source patient and the results of that  
5 attempt shall be documented in the medical record of the source  
6 patient. An inability to contact the source patient, or legal  
7 representative of the source patient, after a good faith effort to do  
8 so as provided in this subdivision, shall constitute a refusal of  
9 consent pursuant to paragraph (2). An inability of the source  
10 patient to provide informed consent shall constitute a refusal of  
11 consent pursuant to paragraph (2), provided that all of the  
12 following conditions are met:

13 (i) The source patient has no authorized legal representative.  
14 (ii) The source patient is incapable of giving consent.  
15 (iii) In the opinion of the attending physician, it is likely that  
16 the source patient will be unable to grant informed consent  
17 within the 72-hour period during which the physician is required  
18 to respond pursuant to paragraph (1).

19 (B) Attempt to obtain the voluntary informed consent of the  
20 source patient or the authorized legal representative of the source  
21 patient to perform a test for a communicable disease, on the  
22 source patient or on any available blood or patient sample of the  
23 source patient. The voluntary informed consent shall be in  
24 writing. The source patient shall have the option not to be  
25 informed of the test result. An exposed individual shall be  
26 prohibited from attempting to obtain directly informed consent  
27 for testing for communicable diseases from the source patient.

28 (C) Provide the source patient with medically appropriate  
29 pretest counseling and refer the source patient to appropriate  
30 posttest counseling and followup, if necessary. The source  
31 patient shall be offered medically appropriate counseling whether  
32 or not he or she consents to testing.

33 (2) If the source patient or the authorized legal representative  
34 of the source patient refuses to consent to test for a  
35 communicable disease after a documented effort has been made  
36 to obtain consent, any available blood or patient sample of the  
37 source patient may be tested. The source patient or authorized  
38 legal representative of the source patient shall be informed that  
39 an available blood sample or other tissue or material will be  
40 tested despite his or her refusal, and that the exposed individual

1 shall be informed of the test results regarding communicable  
2 diseases.

3 (3) If the informed consent of the source patient cannot be  
4 obtained because the source patient is deceased, consent to  
5 perform a test for a communicable disease on any blood or  
6 patient sample of the source patient legally obtained in the course  
7 of providing health care services at the time of the exposure  
8 event shall be deemed granted.

9 (4) A source patient or the authorized legal representative of a  
10 source patient shall be advised that he or she shall be informed of  
11 the results of the test for communicable diseases only if he or she  
12 wishes to be so informed. If a patient refuses to provide informed  
13 consent to testing for communicable diseases and refuses to learn  
14 the results of the testing, he or she shall sign a form documenting  
15 this refusal. The source patient's refusal to sign this form shall be  
16 construed to be a refusal to be informed of the test results  
17 regarding communicable diseases. Test results for communicable  
18 diseases shall only be placed in the medical record when the  
19 patient has agreed in writing to be informed of the results.

20 (5) Notwithstanding any other provision of law, if the source  
21 patient or authorized legal representative of a source patient  
22 refuses to be informed of the results of the test, the test results  
23 regarding communicable diseases of that source patient shall  
24 only be provided to the exposed individual in accordance with  
25 the then applicable regulations established by the Division of  
26 Occupational Safety and Health.

27 (6) The source patient's identity shall be encoded on the  
28 communicable disease test result record.

29 (e) If an exposed individual is informed of the status of a  
30 source patient with regard to a communicable disease pursuant to  
31 this section, the exposed individual shall be informed that he or  
32 she is subject to existing confidentiality protections for any  
33 identifying information about the communicable disease test  
34 results, and that medical information regarding the  
35 communicable disease status of the source patient shall be kept  
36 confidential and may not be further disclosed, except as  
37 otherwise authorized by law. The exposed individual shall be  
38 informed of the penalties for which he or she would be  
39 personally liable for violation of Section 120980.

~~(f) The costs for the test and counseling for communicable diseases of the exposed individual, or the source patient, or both, shall be borne by the employer of the exposed individual, if any. An employer who directs and controls the exposed individual shall provide the postexposure evaluation and followup required by the California Division of Occupational Safety and Health as well as the testing and counseling for source patients required under this chapter. If an exposed individual is a volunteer or a student, then the health care provider or first responder that assigned a task to the volunteer or student may pay for the costs of testing and counseling as if that volunteer or student were an employee. If an exposed individual, who is not an employee of a health facility or of another health care provider, chooses to obtain postexposure evaluation or followup counseling, or both, or treatment, he or she shall be financially responsible for the costs thereof and shall be responsible for the costs of the testing and counseling for the source patient.~~

~~(g) Nothing in this section authorizes the disclosure of the source patient's identity.~~

~~(h) Nothing in this section shall authorize a health care provider to draw blood or other body fluids except as otherwise authorized by law.~~

~~(i) The provisions of this section are cumulative only and shall not preclude testing of source patients for a communicable disease, as authorized by any other provision of law.~~

~~(j) Except as otherwise provided under this section, all confidentiality requirements regarding medical records that are provided for under existing law apply to this section.~~